

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT JACKSON

Assigned on Briefs September 13, 2000

**STATE OF TENNESSEE v. MABEL J. LONGMIRE**

**Direct Appeal from the Criminal Court for Shelby County**  
**No. 98-01032 James C. Beasley, Jr., Judge**

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**No. W1999-00216-CCA-R3-CD - Filed February 15, 2001**

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Defendant Mabel J. Longmire was convicted by a Shelby County jury of first degree murder, Tenn. Code Ann. § 39-13-202, and sentenced to life imprisonment. Her sole issue on appeal is whether the evidence was sufficient to prove beyond a reasonable doubt that she acted with premeditation when she committed the offense. After a review of the record, we affirm the judgment of the trial court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed.**

THOMAS T. WOODALL, J., delivered the opinion of the court, in which GARY R. WADE, P.J., and DAVID G. HAYES, J., joined.

A.C. Wharton, Jr., District Public Defender; W. Mark Ward, Assistant Public Defender; Michael Johnson, Assistant Public Defender; and Garland Erguden, Assistant Public Defender, Memphis, Tennessee, for the appellant, Mable J. Longmire.

Paul G. Summers, Attorney General and Reporter; Lucian D. Geise, Assistant Attorney General; William L. Gibbons, District Attorney General; Karen Cook, Assistant District Attorney General; and David Pritchard, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

Shortly before midnight on December 22, 1996, Lue Emma Pryor was shot to death in front of her home on Claybrook Street in Memphis, Tennessee. The shooting resulted from an altercation between the victim, Ms. Pryor, and the defendant, Mabel J. Longmire, over the fact that the victim was involved in a relationship with Defendant's husband. Prior to the shooting, Defendant had been diagnosed as suffering from a major depressive disorder which she contends impaired her thinking and affected her judgment at the time she shot the victim.

Kenya Conner testified that late in the evening of December 22, 1996, she was playing cards with her aunt when she heard gunshots. Conner immediately ran to the door and looked across the street where she observed a woman with a gun standing over another woman. When the woman with the gun looked in Conner's direction, Conner ran back inside and shut the door. A short time later, Conner heard more shots fired and went outside again. This time Conner saw the shooter walking away from the woman on the ground. As she watched, the shooter got into a car and drove away. Although it was very dark and the street lighting was poor, Conner observed that the shooter wore a white hat and drove a dark-colored, four-door Toyota Corolla.

Khafele Ajanaku, also present on Claybrook Street the night of the shooting, testified that he was outside retrieving something from the trunk of his car when he heard a woman's voice utter a short phrase and then a gunshot immediately afterward. He could not comprehend the actual words said by the woman. Ajanaku testified that he looked up in time to see the flash from a gun and a woman fall forward. The victim gave a little scream as she fell. Because it was dark, he could see only silhouettes of the persons involved and was unable to tell whether the shooter was a man or a woman. Ajanaku testified that he then began to yell at the shooter but received no response. Instead, the shooter walked away from the victim and started to get into her car when the victim moaned and said, "Help me somebody." At this, the shooter turned and walked back to where the victim lay. Standing over her again, the shooter fired four or five more shots at the victim, and then returned to her car and drove away.

Amana Marini Ajanaku testified that she lives on Claybrook Street and was also present during the shooting. She had just stepped into her house from outside when she heard two gunshots. The front door to her house was still wide open. Ms. Ajanaku testified that her first reaction was fear and she froze for a minute. Next, she heard her friend, Khafele Ajanaku, shouting at the shooter and a woman calling for help. Ms. Ajanaku stepped out the door again in time to hear five more shots in rapid succession and see the fire from the gun. Ms. Ajanaku testified that she also observed a shadowy figure standing over a woman on the ground. She recognized the victim as her neighbor, Lue Emma Pryor.

Lwanda Pryor, the victim's daughter, testified that she and her mother lived together. On December 22, 1996, her mother dropped her at a friend's house on her way to see Mr. Longmire, the defendant's husband. Her mother had been dating Longmire for about eighteen months. The next time Lwanda saw her mother was later that same evening. She was lying on the ground in front of their home, dead. Police and medical personnel were already at the scene.

Sammie Harold Ballard, a lieutenant with the Memphis Police Department, testified that he was working as an investigator assigned to the Homicide Bureau in December 1996. Ballard testified that he and Officer Wilkinson interviewed Defendant after her arrest. The officers advised Defendant of her Miranda rights and she agreed to talk with them.

Defendant told the officers that the shooting occurred shortly after she returned from a trip to Louisiana. Defendant became lost driving back and found herself in Yazoo, Mississippi. It was

there that she acquired the .38 caliber pistol that she took to the victim's house. When Defendant arrived in Memphis, she spoke to her husband on the telephone then drove to their house. Her husband had changed the locks, and Defendant could not get inside. The Defendant started drinking and driving around. Defendant was upset. She drove to the victim's house to talk with her. When Defendant approached the victim, the victim grabbed for the gun and it went off. Defendant left the scene. Defendant told the officers that she was too upset at the time to know what really happened or recall how many shots were fired.

Ballard testified that Defendant also told the police that she and her husband were separated and that her husband had been dating the victim. Defendant claimed that her husband promised he would come back to Defendant if and when the victim was out of the way. Defendant also informed the officers that she had been prescribed medication for depression and that she had started drinking heavily after she discovered her husband was seeing another woman. Toward the conclusion of the interview, Defendant agreed to give the officers a written statement. At this time, she recanted the portion of her story where she told the officers that her husband said he would come back to her once the victim was out of the way. She admitted that he never made this statement to her. Then Defendant made a phone call. When she returned, she had changed her mind about giving a written statement.

Dr. O'Brian Cleary Smith, an expert in the field of forensic pathology, testified that he performed an autopsy on the victim. The victim's body contained a total of five wound "tracks" (wounds produced by the passage of a bullet through human tissue). The cause of death was multiple gunshot wounds.

Defendant testified that she began to suspect that her husband was having an affair with the victim in February of 1996. A few months later, Defendant's husband refused to let Defendant touch him and he would not sleep with her. This depressed Defendant. She took an overdose of sleeping pills and ended up in a hospital. Afterward, Defendant was prescribed medication and follow-up counseling for her depression. Defendant initially agreed to the treatments, then quit after two months. Defendant testified that her marital problems did not improve after leaving the hospital. Her husband left her in May, returned in June, but left again in September. Defendant claimed that her husband was seeing the victim during this time.

Defendant testified that she left to visit a girlfriend in New Orleans on December 15, 1996, because she had a "lot of things on [her] mind and needed to get away." At this point, she stopped taking the depression medications which she had resumed taking in October. While in New Orleans, Defendant spent a lot of time in bed and started drinking. Defendant testified that on December 21 she left New Orleans for Memphis, but later became sidetracked and ended up in Mobile, Alabama. Because she was tired of driving at this point, she drove to her cousin's house in Yazoo, Mississippi, to spend the night. The next day, before Defendant left for Memphis, she took her cousin's gun without her cousin's knowledge. Defendant placed the gun in her pocket and drove by the victim's house on her way home. The victim's car was not there.

Defendant testified that when she first arrived at home, she sat around the house for an hour or two feeling angry and hurt. Then, aware that the gun was still in her pocket, Defendant decided to drive back to the victim's house. The victim had not yet returned home, so Defendant waited for her. Defendant testified that she only wanted to ask the victim why she was "messing" with her husband. She did not intend to kill the victim. Approximately five minutes after Defendant arrived at the victim's house, the victim also showed up. Defendant confronted her and asked, "Didn't I tell you to leave my husband alone?" The victim responded by threatening to call the police and slapped Defendant. Defendant took the gun out of her pocket in what she described as "a reflex" action. When the victim saw the gun, she grabbed for it and the gun fired. Defendant claimed that she does not remember why she started firing or what happened next, but does recall that she did not aim the weapon. After the shooting, Defendant got into her car and left town. She did not hear the victim cry for help.

Dr. Lynne Donna Zager, the Forensic Director at the Midtown Mental Health Center, testified that she has a master's and a doctorate in psychology. Part of her duty as Director is to oversee and direct a program that performs evaluations at the request of Shelby County courts. Specifically, the Center evaluates individuals facing criminal charges to determine their competency to stand trial. The Center also renders opinions regarding the mental condition of defendants at the time of an alleged offense. Dr. Zager was asked to evaluate Defendant and subsequently diagnosed her as suffering from a severe and recurrent major depressive disorder. Dr. Zager testified that this type of disorder makes it difficult for a patient to function in many areas of life. Regarding Defendant, her mental judgment would be affected and her thinking would be unclear during an episode of major depression. Dr. Zager testified that since Defendant was not taking her medications at the time of the incident, her abilities relating to judgment and mental function could have been significantly affected. Dr. Zager further testified that, in her opinion, Defendant was able to appreciate the nature and wrongfulness of her behavior.

Dr. Joseph Charles Angelillo, an expert in clinical psychology, testified in rebuttal that he also evaluated Defendant. Dr. Angelillo found Defendant was suffering from severe depression, which may also be classified as a "mental disease." He also judged Defendant to have maladaptive personality traits, i.e., Defendant exhibited "avoidant" and "dependent" personality traits which indicate a hesitancy to enter relationships and a need for approval, respectively. When asked whether Defendant was capable of forming "intent," Dr. Angelillo responded that, while depression may cloud thinking, "it doesn't necessarily prevent one, in [his] opinion, and in this case, from formulating [the] requisite intent for this particular crime . . . ."

## **ANALYSIS**

Defendant contends that the evidence presented at trial is insufficient to sustain a verdict of guilt under the standard enunciated in Jackson v. Virginia, 443 U.S. 307 (1979). Specifically, Defendant argues that the State failed to prove beyond a reasonable doubt that the homicide was the result of premeditation as required when charging the offense of first degree murder. We disagree.

When an accused challenges the sufficiency of the convicting evidence, the standard is whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. State v. Shepherd, 902 S.W.2d 895, 903 (Tenn. 1995) (citing Jackson v. Virginia, 443 U.S. 307, 322-25 (1979)). In determining the sufficiency of the evidence, this Court may not reweigh or reevaluate the evidence. State v. Cabbage, 571 S.W.2d 832, 835 (Tenn. 1978). Nor may this Court substitute its inferences for those drawn by the trier of fact from circumstantial evidence. Liakas v. State, 286 S.W.2d 856, 859 (Tenn. 1956). To the contrary, this Court is required to afford the State the strongest legitimate view of the evidence contained in the record, as well as all reasonable and legitimate inferences which may be drawn from the evidence. State v. Tuttle, 914 S.W.2d 926, 932 (Tenn. Crim. App. 1995). Questions concerning the credibility of the witnesses, the weight and value to be given the evidence, as well as all factual issues raised by the evidence, are resolved by the trier of fact, not this Court. State v. Pappas, 754 S.W.2d 620, 623 (Tenn. Crim. App. 1987). Because a verdict of guilt removes the presumption of innocence and replaces it with a presumption of guilt, the accused has the burden in this Court of illustrating why the evidence is insufficient to support the jury verdict returned by the trier of fact. State v. Tuggle, 639 S.W.2d 913, 914 (Tenn. 1982).

Defendant argues that the evidence is insufficient to convict her because, mentally, she was unable to develop premeditation. First degree murder is defined as a “premeditated and intentional killing of another.” Tenn. Code Ann. § 39-13-202(a)(1) (1997). The statute further defines “premeditation” as “an act done after the exercise of reflection and judgment” and provides that,

‘Premeditation’ means that the intent to kill must have been formed prior to the act itself. It is not necessary that the purpose to kill pre-exist in the mind of the accused for any definite period of time. The mental state of the accused at the time the accused allegedly decided to kill must be carefully considered in order to determine whether the accused was sufficiently free from excitement and passion as to be capable of premeditation.

Tenn. Code Ann. § 39-13-202(d) (1997). Defendant contends that because she was suffering from a major depressive disorder at the time of the homicide, her mind was so affected that she was incapable of exercising sufficient reflection and judgment to establish premeditation prior to killing the victim. Granted, a defendant may not be convicted of first degree premeditated murder if, as the result of a mental disease or defect, he or she lacked the capacity to form premeditation. See generally State v. Hall, 958 S.W.2d 679, 689-90 (Tenn. 1997). However, the great weight of evidence in this case leads to a conclusion contrary to Defendant’s assertions.

While there was significant expert testimony that Defendant was suffering from a major depressive disorder at the time she killed the victim, and that this “mental disease” affected her ability to function with regard to judgment and other cognitive skills, this does not require a finding that Defendant lacked the capacity to premeditate. Indeed, the defense expert testified that

Defendant was able to appreciate the nature and wrongfulness of her behavior which implies that she also had the ability to engage in some form of judgment and reflection prior to killing the victim. This is especially true in light of the time and effort Defendant used to complete the crime. Examining the evidence in the light most favorable to the State, a rational trier of fact could determine beyond a reasonable doubt that Defendant acted with premeditation.

Although we conclude that Defendant was not laboring under a state of diminished capacity at the time she committed the crime, we must still determine whether the State put on sufficient proof to establish that Defendant did, in fact, kill the victim intentionally and with premeditation. We hold that it did. Defendant prepared for killing the victim. First, she stole a .38 caliber pistol from her cousin and carried the weapon in her pocket as she followed through with her plan to confront the victim. Secondly, Defendant laid in wait for the victim. She sat in her car, angry and upset, for at least five minutes before the victim arrived. Lastly, and most damaging to Defendant's argument, Defendant not only shot the victim multiple times, but when Defendant discovered as she was departing that the victim was still alive, she walked back to where the victim lay on the ground and repeatedly shot her again.

Whether a defendant has acted with premeditation is a question for the finder of fact to determine, and it may be inferred from the manner and circumstances of the killing. State v. Gentry, 881 S.W.2d 1, 3 (Tenn. Crim. App. 1993). The following factors may be considered in deciding whether the murder was premeditated: (1) the procurement and use of a deadly weapon upon an unarmed victim, (2) the defendant's declarations of her intent to kill, (3) the infliction of multiple wounds, (4) defendant's calmness immediately after the killing, and (5) a particularly cruel killing. See State v. Bland, 958 S.W.2d 651, 660 (Tenn. 1997); State v. Brown, 836 S.W.2d 530, 541-42 (Tenn. 1992). We find that the circumstances in the instant case support the majority of the factors above. Viewing the evidence in a light most favorable to the State, the proof was sufficient for a rational trier of fact to have found beyond a reasonable doubt that Defendant killed the victim intentionally and with premeditation. Defendant is not entitled to relief on this issue.

### CONCLUSION

In sum, we conclude that the evidence was sufficient to support the guilty verdict of premeditated first degree murder. Accordingly, the judgment of the trial court is AFFIRMED.

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THOMAS T. WOODALL, JUDGE